IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.196 OF 2002
IN
WRIT PETITION NO.5153 OF 2001

The Managing Director)
)
M/s.Hindustan Fasteners Pvt.Ltd.,)
E-30, MIDC Area, Satpur)
Nashik-422 007.)..Appellant
(Org.Petitioner)

Versus

1. Nashik Workers' Union)
CITU Centre, Trimbak Road)
Nashik)

2. Member Industrial Court,)
Nashik.)..Respondents
(Org.Respondents)

Mr.S.S.Pakale with Ranjana Todankar for appellant.

Mr.Bhavesh Parmar for Respondent No.1.

Coram : V.C.Daga &
R.S.Mohite,JJ

Date : 29.09.2004.

Oral Judgment : - (Per : V.C.Daga,J)

. Heard learned Counsel for the rival parties.

. Perused Letters Patent Appeal.

1. This appeal is directed against the order of the learned single Judge dated 23.4.2002 passed in Writ Petition No.5153 of 2001 whereby the award dated 19.01.2000 passed by the Industrial Tribunal, Nashik

in Reference (IT) 7 of 1993 came to be affirmed. The challenge to the award of the Industrial Court was based on the ground that Industrial court did not take into consideration the effect of Clause-20 of the Settlement dated 24.05.1993 arrived at between the Hindustan Fasteners Pvt.Ltd., and their workmen. The clause-20 of the Settlement reads as under :-

> CLAUSE NO.(20) : SETTLEMENT - A PACKAGE TERMS
>
> That this settlement is in package deal vis-a-vis full demands raised by the Union under its charter of demands dated 1st January 1993 that and as well as elsewhere. It is expressly understood that this settlement is in full and final settlement of all the said demands and settles all demands of the Union/Workmen made till date of whatsoever nature. Such as of the demands as set out in the charter of demands and elsewhere, referred to hereinabove but not specifically dealt within this settlement are hereby treated as having been withdrawn and/or not pressed by the Union and the workmen and settled the same accordingly. It is further agreed that during the currency of this settlement, the Union and the workmen shall not raise any fresh demand whatsoever, whether covered by this settlement or otherwise and whether involving financial burden or not. No other demands of whatsoever nature shall be made by the union or the workmen either directly or indirectly. Any demand made shall have the effect of nullifying this settlement."

2. The learned Counsel for the appellant submits that by virtue of aforesaid clause-20 all demands including the dispute with regard to the justification of lock-out and resultant wages, which

workers were claiming were settled for all time to come.

3. This submission was also unsuccesfully made before the learned single Judge which is clear from the impugned order. Learned single Judge held that clause-20 nowhere states that the workmen had given up their rights of wages for the period of illegal lock-out or that they would not be proceeding with the Industrial reference.

4. Learned Counsel for the appellant took us through the terms of the settlement and made extensive submissions on the interpretation of clause-20 and also highlighted background and other circumstances which led to the settlement between the parties.

5. Having heard the learned Counsel for the appellant on the interpretation of the clause, we find that the view taken by the learned single Judge is a reasonable and possible view. No material is to be found in the settlement to hold that workers had an intention to abandon their rights to proceed with the reference in question. The question as to whether or not reference should be made was then pending with the appropriate Government but parties were not aware of the same. Suomoto reference came to be made subsequent to the date of the agreement

in question i.e. on 5.6.1993. On the date of agreement no reference was made or pending. If it is a subsequent event subsequent to the date of agreement, it is not possible to infer for want of material that workers were aware of this pendency and with full knowledge they abandoned their rights. Apart from the above, while considering the order under challenge at the appellate stage relevant consideration would be as to whether or not the view taken in the impugned order or Judgment is a reasonable and possible view. If not, then such view would be a perverse view . In other words while dealing with the matters raised before it at the appellate stage, the appellate Court is not expected to interfere with a view taken by the court below if the view taken is a possible view.

6. Considering the above parameters of the jurisdiction of the appellate court in our view, the view taken by the learned single Judge is a reasonable and possible view. There is nothing on record to show that the workmen had given up their rights to claim wages for the period of illegal lock-out or any declaration that they would not be proceeding with the Industrial reference. We concur with the view taken by the learned single Judge for the reasons recorded herein.

7. So far as the bad financial position of the

petitioner-company and that the company is before BIFR is concerned, it would hardly be relevant consideration for setting aside of the impugned order of the learned single Judge of the Industrial court.

8. In the above view of the matter, we do not see any reason to interfere with the impugned order.

9. In the result, the appeal is dismissed with no order as to costs.

10. At this stage, the learned Counsel for the appellant prayed for stay of the impugned order consequent recovery of wages for a period of 8 weeks to approach the Apex court. We do not think we would be justified in granting stay as prayed for in view of the fact that workers are fighting for their rights for past 11 years i.e. from 1993. In the circumstances, prayer for stay is rejected.

(V.C.Daga,J)

(R.S.Mohite,J)